

**CITY OF MILPITAS
UNAPPROVED**

PLANNING COMMISSION MINUTES

September 13, 2006

**I.
PLEDGE OF
ALLEGIANCE**

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Ali-Santosa, Azevedo, Mandal, Tabladillo and Williams
Absent: Galang
Tardy: Ciardella (arrived at 7:09 p.m.)
Staff: Bejines, Carrington, Duncan, Hom, Ishijima, Maxwell, Pio Roda, Whitecar and Williams

**III.
PUBLIC FORUM**

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers from the audience.

**IV.
APPROVAL OF MINUTES
August 23, 2006**

Chair Williams called for approval of the minutes of the Planning Commission meeting of August 23, 2006.

Staff had no changes to the minutes.

Motion to approve the August 23, 2006 minutes.

M/S: Mandal/Azevedo

AYES: 5

NOES: 0

**V.
ANNOUNCEMENTS**

Tom Williams, Planning and Neighborhood Services Director, announced that for Agenda Item No. 1 ("S" Zone Approval No. SZ2005-17) the commission has a memorandum that states that the name of the project is not Calaveras Country Estates but Calaveras Ridge Estates. For Item No. 2 (Use Permit No. UP2005-15 and "S" Zone Approval Amendment No. SA2005-51) the applicant is Metro PCS not T-Mobile and for Item No. 3 (Conditional Use Permit No. UP2006-15 and "S" Zone Approval Amendment No. SA2006-27) the Commission has a memorandum that states the current building size in the staff report references 43,027 square feet and the actual size is 87,283 square feet.

Assistant City Attorney Richard Pio Roda stated that last night the City Council held a special meeting regarding appointing the Planning Commission alternate. They did not move forward because of a recent General Attorney opinion regarding the Mayor's appointment power to the Planning Commission. The City Attorney's office is updating advice to the new General Attorney's opinion and will issue a new opinion to the City Council and will hope to have a new appointment meeting again in early October. The applicant's for the Planning Commission will also be notified.

Commissioner Azevedo asked what happens to the Commissioners that were appointed before this ruling. Assistant City Attorney Pio Roda stated that they are grandfathered in. The City Ordinance requires the City Council to appoint Planning Commission members. The usual practice is for the Mayor to make appointments and to be confirmed by the City Council. This Attorney General opinion confirms that the Planning Commissioners are not exempt from that requirement in the state code so the City Ordinance will have to be updated if the Council chooses too.

**VI.
CONFLICT
OF INTEREST**

City Attorney Richard Pio Roda asked if the Commission has any personal or financial conflict of interest on tonight's agenda.

There were no Commissioners that identified a conflict of interest.

**VII.
APPROVAL OF
AGENDA**

Chair Williams called for approval of the agenda.

Staff had no changes to the agenda.

Motion to approve the agenda.

M/S: Azevedo/Mandal

AYES: 6

NOES: 0

**VIII.
CONSENT CALENDAR
None**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Commissioner Azevedo requested that Item No. 2 (Use Permit No. UP2005-15 and "S" Zone approval amendment no. SA2005-15) be added to the consent calendar with all special conditions and include the memo from staff that states the following correction on page 4 of the staff report:

It is also consistent with Implementing Policy S.aI-3. The project is encouraging economic pursuits that will strengthen and promote development through stability and balance. The project will enable Metro PCS to improve wireless coverage and service capacity that mutually benefits residents and businesses within the City.

Motion to add Agenda Item No. 2 to the consent calendar with special conditions based on the findings noted in the staff report and correction to page 4 of the staff report.

M/S: Azevedo/Mandal

AYES: 6

NOES: 0

Chair Williams opened the public hearing on consent Item No. 2.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Azevedo/Mandal

AYES: 6

NOES: 0

Motion to approve the consent calendar.

M/S: Azevedo/Mandal

AYES: 6

NOES: 0

***2 USE PERMIT NO. UP2005-15 AND "S" ZONE APPROVAL AMENDMENT**

NO. SA2005-51: A request to locate a wireless telecommunication facility consisting of 6 panel antennas that will be mounted on existing roof top equipment and screened to match existing roof material and to install associated equipment cabinets that will be contained within the existing retail building located at 1350 S. Park Victoria Drive. *(Recommendation: Approve with Conditions)*

**IX.
PUBLIC HEARING**

**1. "S" ZONE
APPROVAL NO. SZ2005-
17**

Kim Duncan, Project Planner, presented "S" Zone Approval No. SZ2005-17, a request to construct an approximately 4,196 square foot, one-story, single-family hillside residence with site modifications that include removal of protected trees, grading greater than 500 cubic yards, and landscaping, located in Calaveras Ridge Estates, PUD 23.5, at 802 Calaveras Ridge Drive, zoned Single-Family Hillside. Ms. Duncan pointed out that all references to Calaveras Country Estates within the body of the staff report should read Calaveras Ridge Estates. Ms. Duncan recommended approval with conditions to City Council based on the findings in the staff report.

Commissioner Ciardella asked about the American soil testing investigation report that was done in 1982. Ms. Duncan explained that the geological report was done in 1982 and a current soils report that supported the geologic findings was done as well.

Chair Williams opened the public hearing.

There were no speakers from the audience.

Close the public hearing

Motion to close the public hearing.

M/S: Azevedo/Mandal

AYES: 6

NOES: 0

Chair Williams said he is glad that staff provided aerial photos since he was unavailable to see the site. Mr. Williams said that staff transposed the access code numbers so hopefully the other Planning Commission members were able to view the site.

Chair Williams said he publicly apologizes to the resident who he may have disturbed.

Commissioner Mandal asked for clarification on the protective tree. Ms. Duncan said that there are two protective trees on site and if the Commission agrees with the project, the applicant will have to submit an application for a tree removal permit. The replacement ratio for the removal of protected trees is 5 to 1 so the applicant is proposing 11 trees, which is one over the required ten.

Motion to approve “S” Zone Approval No. SZ2005-17 with special conditions based on the findings noted in the staff report and that all references in the staff report should state Calaveras Ridge Estates not Calaveras Country Estates.

Mandal/Azevedo

Ayes: 6

Noes: 0

**2. USE PERMIT NO.
UP2005-15 AND "S"
ZONE APPROVAL
AMENDMENT NO.
SA2005-51:**

Momo Ishijima, Project Planner, presented Conditional Use Permit No. UP2006-15 and “S” Zone Approval Amendment No. SA2006-27, a request for the renovation and site improvements of an existing industrial building. The proposal includes the removal and reconstruction of the interior warehouse space to office use, exterior façade, trash enclosure, parking lot and landscaping. A Conditional Use Permit approval is required for the increase in the allowed floor Area Ratio (FAR). The project site is located at 1511 Buckeye Court, zoned Industrial Park. Mrs. Ishijima recommended approval with condition. Mrs. Ishijima noted the following corrections in the staff report:

- *Page 2 – Background section: Delete the sentence “The building was never built out to its approved size and the current building size is 43,027 square feet.” All references to “43,027” square feet should be modified to “87,283” square feet.”*
- *Page 5 – Floor Area Ratio Section: Modify the second sentence to read, “The current FAR for the project site is .54, already exceeding the allowable FAR in the MP – Industrial Park zoning district by .04. Delete the fourth sentence “The allowable FAR in the MP – Industrial Park District is .50.”*
- *Page 5 of the Staff Report – Floor Area Ratio Analysis a) section: Modify Analysis a) to read: “According to the Trip Generation Analysis prepared by the City staff, the AM and PM peak hour traffic increase for the additional floor space during the AM hours is 3 trips and for PM hours is 2 trips. (See attached Table 1) The existing uses generate 2.14 and 1.96 trips per 1,000 square feet during the AM and PM peak hours, respectively. The proposed uses would generate 2.01 and 1.90 trips per 1,000 square feet during the AM and PM peak hours, respectively. Therefore, the finding of “low peak hour traffic generation” can be made. The level of service (LOS) of neighboring intersections in this area is LOS B. Staff concludes that the increase does not represent a significant or noticeable increase in traffic volume on local streets and will therefore be considered to generate low peak hour traffic.”*

Commissioner Mandal asked if the fab and electrical pad is going away because production is being moved someplace else. Mrs. Ishijima said Zycorp previously owned the building and Linear recently purchased the building and are renovating the building for the use. She doesn’t think the fab or the equipment mezzanines were used for their productions however she asked the applicant’s to clarify.

Robert Cortes, Architect for Linear, 1511-M Sycamore Avenue, Hercules, CA 94547, said the fab was never there in terms of employment. Zycorp built the building several years ago, never outfitted the fab and it was never used. When Linear purchased the building, they did not purchase it as a fab and their intent was to use this as an office building. Their fab is located in Hercules and they have expansion potential in that building.

Chair Williams asked if the color sample is representative of the current building and Mrs. Ishijima said yes.

Chair Williams asked about warehousing operations and if there will be a lot of truck activity. Mrs. Ishijima deferred the question to the applicant.

David Smith, Applicant, 1576 Foothill Drive, Pleasanton, CA, 94588, said that Linear shipments to customers are done every evening at 5 p.m. and are picked up by DHL and Fed Ex. Mr. Cortes added that the warehousing is being taken out of building four and shifted to building five so any increase of traffic will be offset by the loss of the property right next door. The warehouse is slightly larger by 10%, but the number of trucks that come into the facility are very few, not a shipping and delivery, more of an on-call delivery.

Chair Williams recalled that when he used to work in the area, he would walk during lunchtime in the bike pathway areas. He asked if the applicant is planning to build a sidewalk or will pedestrians have to keep on walking on the bike paths. Mr. Cortes said that the sidewalk that is being required as part of the conditions of approval is for the boulevard sidewalk and Linear has not committed to the overall onsite consolidation of the buildings and on site sidewalks that would link it all together but that is coming in the near future. The public sidewalk will be separated from Linear's by landscaping but there is no intention of asking the public to come onto the site.

Chair Williams said he is concerned about a potential public safety issue.

Mr. Cortes said they have extended the sidewalks improvements by respecting the bus stop that is at the corner on the intersection of sycamore and buckeye and Linear is creating a little development at the bus stop and extending the front door access from the lobby to the bus stop but are not asking the general public to come on the site.

Chair Williams opened the public hearing.

Don Peoples, 3444 Spring Creek Lane, said as an economic development member, the City should fill the vacant industrial buildings. Linear is a world-class company with a COO who is a graduate from Milpitas High and wants to make the building more efficient. He felt that putting in a six-foot sidewalk in the area would require the removal of trees and be unsafe because of the traffic volumes and would be very little use and felt the Commission should approve the project without the recommendation of the sidewalk.

Frank De Smidt, Chamber of Commerce, said that Linear is one of the finest businesses from the Chamber and received corporation of the year. He hopes the City can work with them on this issue of the sidewalk. He said that Ordinance No. 95 would be an issue with the City in the future because a lot of companies were built without sidewalks. He felt the ordinance should be more flexible so in the end, the City will not turn away businesses but will encourage them to stay here.

Close the public hearing

Motion to close the public hearing.

Azevedo/Mandal

Ayes: 6

Noes: 0

Mr. Cortes asked Mrs. Ishijima to clarify condition no. 8 which reads below:

8. *Prior to building permit issuance, the developer shall obtain design approval and bond for all necessary public improvements along Sycamore and Buckeye Drives including but not limited to new 6-foot sidewalk installation, ADA approved ramp installation, removal and replacement of damaged curb, gutter and pavements, and adjusting of all affected utility boxes to grade. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. (E)*

Mr. Cortes said that staff addressed the sidewalk issue as needing to have a building permit and construction done before the issuance of the building permit and the staff report states that Linear needs to receive design approval and bond the construction. Linear's intent is to build the building as quick as they can and to be held hostage to a sidewalk that they already agreed to put in makes no sense. He requested that staff reword condition no. 8.

Mrs. Ishijima requested that staff revise condition no. 8 to the following:

8. *Prior to building permit issuance, the developer shall obtain design approval and bond for all necessary public improvements along Sycamore and Buckeye Drives including but not limited to new 6-foot sidewalk installation, ADA approved ramp installation, removal and replacement of damaged curb, gutter and pavements, and adjusting of all affected utility boxes to grade. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The installation of the sidewalk improvements shall be completed prior to occupancy permit issuance. (E) (PC)*

Commissioner Mandal asked if Linear is increasing the number of employees and Mr. Cortes said yes.

Commissioner Azevedo asked if Linear needs to install the sidewalks and Mr. Williams said that it is policy from the City Council to have sidewalks.

Chair Williams said that being familiar with the area, other businesses are coming back to the area and are looking at the area of more of a revitalization of the area. There is a public safety problem and it is a challenge to walk in the bike paths in the street. He is looking at the big picture and looking at safeguarding others in the area.

Motion to approve Conditional Use Permit No. UP2006-15 and "S" Zone Amendment No. SA2006-27 with approval with staff's changes to the staff report, all of the special conditions based on the findings in the staff report and revised condition no. 8 that reads above.

Mandal/Azevedo

Ayes: 6

Noes: 0

**3. PROPOSED
REDEVELOPMENT
PLAN AMENDMENT**

Ms. Whitecar, Economic Development Manager, presented a request to approve the proposed redevelopment plan amendments and determine that the proposed amendments are consistent with the City General Plan. Ms. Whitecar recommended that the Commission approve Planning Commission Resolution No. 499 determining that the proposed redevelopment plan amendments are consistent with the City's General Plan and approve the proposed plan amendment.

Commissioner Azevedo asked if the Great Mall signs off the freeway are illegal. Ms. Whitecar said no because the signs were merged with the Project Area in 2001.

Commissioner Tabladillo asked how will the signs look like and will they have additional advertising. Ms. Whitecar noted that the signs would be coming to the commission for approval. Of the five signs, if the commission agrees, two are electronic signs, and those will have the flexibility to accommodate more businesses.

Commissioner Mandal pointed out that along I-880 from Milpitas to Oakland, there is a big sign next to the auto mall that is used for different businesses. He asked if staff is considering something like that. Ms. Whitecar said that the City's sign would be tall and will have a digital component, a newer sign than what Fremont has, to recognize the City of Milpitas.

Commissioner Mandal asked who would be involved and Ms. Whitecar said that is the aspect of the next item.

Commissioner Ciardella asked who will be controlling the reader boards and suggested that the City could add monument signs welcoming people to the City.

Chair Williams opened the public hearing.

There were no speakers from the audience.

Close the public hearing

Motion to close the public hearing.

Azevedo/Ali-Santosa

Ayes: 6

Noes: 0

Motion to approve Planning Commission Resolution No. 499 determining that the proposed redevelopment plan amendments are consistent with the City's General Plan and approve the proposed plan amendments.

Azevedo/Mandal

Ayes: 6

Noes: 0

**4. SUPPLEMENTAL
ENVIRONMENTAL
IMPACT REPORT
(SEIR) FOR THE
PROPOSED MERGER
OF MILPITAS
REDEVELOPMENT
PROJECT AREA NO. 1
AND THE GREAT MALL
REDEVELOPMENT
PROJECT AREA
PUBLIC SCOPING
MEETING**

Ms. Whitecar, presented Supplemental Environmental Impact Report (SEIR) for the proposed merger of Milpitas Redevelopment Project Area No. 1 and the Great Mall Redevelopment Project Area Public Scoping meeting. She presented a request that the Planning Commission hold the scoping meeting and receive public comments, and requested that the Commission receive public testimony on the scope and content of the SEIR for the proposed redevelopment project area merger, including what environmental issues and concerns that should be considered in preparing the SEIR. She also pointed out that no decision is needed on the actual SEIR or proposed redevelopment project area merger at this time.

Chair Williams asked if the sign ordinance prohibits flashing signs. Mr. Williams said it is not an outright prohibition. There are certain findings that the City Council needs to make to approve reader and electronic board signs.

Chair Williams asked how would it effect the environment in regards to visual impacts. Mr. Williams said the City Council would have to look at what the impacts the signs would have on the surrounding areas in terms of the scope in which staff is pursuing the EIR which will address those issues in the scoping session.

Commissioner Mandal asked how would the public be notified about the potential freeway signs in their area. Ms. Whitecar said she will be putting ads in the paper and will mail out letters to the public.

Commissioner Tabladillo asked if staff had a particular location in mind in regards to the two neon signs. Ms. Whitecar said that she is not sure.

Commissioner Tabladillo said she is concerned about the potential impacts of I-680 because of the residents that live near the freeway. Chair Williams agreed with Commissioner Tabladillo.

Commissioner Azevedo said he is concerned about having one public meeting and suggested that staff have separate public meetings regarding the signs that would affect the surrounding residential areas.

Mr. Williams said that each individual sign would have to come back as an "S" Zone approval amendment and each individual sign would require a public hearing.

Assistant City Attorney Pio Roda confirmed that each sign would have to have a separate public hearing.

Chair Williams invited the applicant to speak. He also noted that this is not a public hearing.

Kai Giffin, 1st Street, San Jose, representing Auto Properties and Piercey Toyota, said Piercey's plans have expanded and are negotiating with the City and VTA for their sites to expand and have a large complex. Auto Properties is working with Clear Channel to have a marketing package for Piercey Toyota and recognize the City of Milpitas. The City will own the signs and will lease them to Auto Properties to maintain them and help with revenue. He said that Milpitas has an identification problem and they are working with the Airport to have a large display there to advertise the cars and the location of Milpitas. He said they are interested in the large digital electronic billboards because you can have more advertisers and put up current events. The company is not interested in putting the signs on I 680 and pointed out that the higher the signs the less impact on the residents.

Commissioner Azevedo said he supports the project however he is concerned about the impacts the signs might have on the residents and encouraged staff to have public meetings at each potential sign location so that residents can provide feedback.

Chair Williams said that the Council would have to make the decision of the electronic boards because the City has had a long-standing issue against billboards and against signs being over 25 feet. There was an impact to the residents when the Great Mall signs were brought on board. He said there are perceptions that still exist in the community so Council, through staff, is going to need to do an outreach. He said the presentation that staff provided will help the public see what it means particularly to give Milpitas recognition such as the airport display and the display at the Great Mall. This is going to be a long process and he is happy to see that the City is finally going to get recognition. He said it has to be done correctly and with a lot of input.

The meeting was adjourned at 8:56 p.m. to the next regular meeting of September 27, 2006.

**X.
ADJOURNMENT**

Respectfully Submitted,

Tom Williams
Planning and Neighborhood Services
Director

Veronica Bejines
Recording Secretary